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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

15 JAMES G. GARCIA

Plaintiff,

C 07-6262 CRB (PR)

**[PROPOSED] ORDER
GRANTING SUMMARY
JUDGMENT**

BEN CURRY, Warden, et al.

Defendants.

20 Defendants A. Tucker, B. Curry, V. Khan, D. N. McCall, A. E. Roberts, and P. Barker
21 (Defendants) have moved this Court for summary judgment. After full briefing on the matter,
22 the Court grants Defendants' motion. Defendants did not retaliate against Garcia based on his
23 status as a MAC member. Rather, Defendants' alleged retaliatory actions were taken in
24 furtherance of legitimate penological goals, specifically, that of maintaining institutional safety.
25 These actions did not violate Garcia's First Amendment rights and do not provide a basis for
26 retaliation claims. *Pratt v. Rowland*, 65 F.3d 802, 806 (9th Cir. 1995).

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[Proposed] Order Granting Defs.' Mot. Summ. J.

J. G. Garcia v. B. Curry, et al.
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1 Moreover, Garcia has not received any constitutional harm as a result of any of the alleged
2 actions. *See Rhodes v. Robinson*, 408 F.3d 559, 567-567 & n.11 (9th Cir. 2005).

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4 Therefore, after full consideration, and good cause appearing, IT IS HEREBY ORDERED
5 that Defendants' motion for summary judgment is granted.

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8 Date

HON. CHARLES R. BREYER
United States District Judge

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **J. G. Garcia v. B. Curry, et al.**

No.: **C 07-6262 CRB (PR)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 2, 2008, I served the attached

DEFENDANTS' NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT

**DECLARATION OF L. KORMAN IN SUPPORT OF DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

[Proposed] ORDER GRANTING SUMMARY JUDGMENT

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

**James G. Garcia, K-26584
Ironwood State Prison
P.O. Box 2229
Blythe, CA 92226
Pro Per**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 2, 2008, at San Francisco, California.

T. Oakes

Declarant

/s/ T. Oakes

Signature